

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JEDIDIAH MURPHY, §  
Plaintiff, §  
§ No. 1:23-CV-1170-RP-SH  
§  
§  
ALEXANDER JONES, et al., §  
Defendants. §

**DEFENDANTS' MOTION TO DISMISS PROCEEDINGS AS MOOT**

This is a civil-rights lawsuit initiated by Plaintiff Jedidiah Murphy. ECF No. 6. This Court stayed Murphy's October 10, 2023 execution pending resolution of this lawsuit. ECF No. 16. Defendant filed an application to vacate the stay of the execution in the United States Supreme Court, which was granted. *Nasser v. Murphy*, \_\_ S. Ct. \_\_ 2023 WL 6567841, at \*1 (2023). Murphy's execution was carried out on October 10, 2023. Juan A. Lozano and Michael Graczyk, *Texas executes man who questioned evidence presented at trial in deadly carjacking of elderly woman*, [www.apnews.com](http://www.apnews.com), (October 10, 2023, 10:58 PM), [apnews.com/article/texas-execution-murphy-supreme-court-6d9cd44d7c7a6817d53e1bcb74e8534f](http://www.apnews.com/article/texas-execution-murphy-supreme-court-6d9cd44d7c7a6817d53e1bcb74e8534f). As Murphy's execution was carried out, Defendants now ask the Court to dismiss Murphy's complaint with prejudice. Murphy's execution has rendered these proceedings moot.<sup>1</sup>

---

<sup>1</sup> See *Flores ex rel. Estate of Flores v. Fox*, 394 Fed.Appx. 170, 171–72 (5th Cir. 2010) (“Flores’s claim for injunctive relief to correct his prison records … is mooted by his death.”) (citing *Rhodes v. Stewart*, 488 U.S. 1, 4 (1988) (holding that death of prisoner mooted claim for injunctive relief seeking modification of prison policy); *Copsey v. Swearingen*, 36 F.3d 1336, 1339 n.3 (5th Cir. 1994) (stating that claims for injunctive and declarative relief mooted by death)); *Plumley v. Landmark Chevrolet, Inc.*, 122 F.3d 308, 312 (5th Cir. 1997) (holding that claim for declaratory relief was moot because plaintiff was deceased); Ord. of Dism., *Ochoa v. Collier et. al*, No. H-19-4976 (S.D. Tex. Feb. 10, 2020), ECF No. 27 (“Here, Plaintiff’s death moots any remaining claims[.]”); cf. *Knapp v. Baker*, 509 F.2d 922, 922 (5th Cir. 1975) (holding that a petitioner’s death moots a pending federal habeas proceeding).

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JOSH RENO  
Deputy Attorney General  
for Criminal Justice

EDWARD L. MARSHALL  
Chief, Criminal Appeals Division

/s/ Ali M. Nasser

ALI M. NASSER\*  
Assistant Attorney General  
District Attorney Pro tem  
State Bar No. 24098169

P. O. Box 12548, Capitol Station  
Austin, Texas 78711  
(512) 936-1400  
(512) 936-1280 (FAX)

/s/Joshua Neal Humphreys

Joshua Neal Humphreys  
City of Arlington, City Attorney's Office  
101 South Mesquite Street, Suite 300  
Arlington, TX 76010  
512-799-2918  
Email: josh.humphreys@arlingtontx.gov

ATTORNEYS FOR DEFENDANTS

### **CERTIFICATE OF CONFERENCE**

I do hereby certify that on November 14, 2023, I conferreded with counsel of record Catherine Bernhard and she advised that she was not opposed to this motion.

Catherine Bernhard  
P.O. Box 506  
Seagoville, Texas 75159  
972-421-1604  
cbernhard@sbcglobal.net

/s/ Ali Nasser  
ALI NASSER  
Assistant Attorney General

### **CERTIFICATE OF SERVICE**

I do hereby certify that on November 15, 2023, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Western District of Texas, using the electronic case-filing system of the Court. The electronic case-filing system sent a "Notice of Electronic Filing" (NEF) to the following counsel of record, who consented in writing to accept the NEF as service of this document by electronic means:

Catherine Clare Bernhard  
Law Office of Catherine Clare Bernhard  
P.O. Box 506  
Seagoville, TX 75159  
972-294-7262  
Fax: 972-421-1604  
Email: cbernhard@sbcglobal.net

Katherine Froyen Black  
Attorney At Law  
205 Blue Ridge Trail  
Austin, TX 78746  
415-847-6127  
Email: kfroyen@gmail.com

Russell David Hunt , Jr.  
Russell D. Hunt, Jr. Attorney at Law

310 South Austin Avenue  
Georgetown, TX 78626  
(512)474-5114  
Fax: (512)857-0746  
Email: admin@russhuntjrlaw.com

Joshua Neal Humphreys  
City of Arlington, City Attorney's Office  
101 South Mesquite Street, Suite 300  
Arlington, TX 76010  
512-799-2918  
Email: josh.humphreys@arlingtontx.gov

/s/ Ali M. Nasser  
ALI M. NASSER  
District Attorney Pro Tem  
Assistant Attorney General